

Remarks

This Amendment responds to the non-final Office Action mailed on November 24, 2008. Claims 1-3, 5, 8-19, and 21-24 are pending. Claims 1 and 13 have been amended. Claims 23 and 24 are new. Applicants appreciate the Examiner's indication that claims 21 and 22 are allowable. In view of the following remarks and the forgoing amendments, Applicants respectfully submit that this application is in complete condition for allowance and request reconsideration of the application in this regard.

Rejection of Claims under 35 U.S.C. § 103(a)

Claims 1-3, 5, 8-10, 12, 13, and 15-19 over Rosenstone

Claims 1-3, 5, 8-10, 12, 13, and 15-19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 2,101,755 to Rosenstone et al. (hereinafter *Rosenstone*). Of the rejected claims, claims 1 and 13 represent independent claims. The Examiner contends that *Rosenstone* shows all the elements of the rejected claims. Applicants respectfully disagree with this contention.

Applicants' independent claims 1 and 13, as amended, now recite "a motor coupled with the cutter of the cutting device, the motor configured to spin the cutter about an axis of rotation so that at least a portion of the cutter rotates during each full rotation about the axis of rotation from a location outside of the wall through the slit into the forming space, across the forming space, and through the slit out of the forming space to the location outside of the wall." In contrast, *Rosenstone* discloses a handle (18) that is used to move the cutting device (16). *Rosenstone* fails to disclose a motor. Under the framework of the *Graham* factual inquiries, *prima facie* obviousness has not been established because there are unresolved differences between independent claims 1 and 13 and the disclosure of *Rosenstone*. For at least this reason, Applicants therefore respectfully request that the Examiner withdraw the rejection.

Rosenstone cannot be predictably modified to include a motor, as claimed, because the handle (18) is incapable of spinning the cutting device (16) in a full rotation about the axis (20). The spacer plate (23) would act to prevent full rotation of the cutting device (16). Hence, the

success of any such attempted modification to *Rosenstone* would not have been apparent to a person having ordinary skill in the art.

Because claims 2, 3, 5, 8-10, 12, 16, and 17 depend from independent claim 1 and claims 15, 18, and 19 depends from independent claim 13, Applicants submit that these claims are also patentable. Furthermore, each of the dependent claims 2, 3, 5, 8-10, 12, and 15-19 recites a unique combination of elements not disclosed or suggested by *Rosenstone*.

Claims 1-3, 5, 8-13, and 16 over Ackerman

Claims 1-3, 5, 8-13, and 16 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 2,500,973 to Ackerman et al. (hereinafter *Ackerman*). Of the rejected claims, claims 1 and 13 represent independent claims. The Examiner contends that *Ackerman* shows all the elements of the rejected claims. Applicants respectfully disagree with the Examiner's contention.

Applicants' independent claims 1 and 13, as amended, now recite "a motor coupled with the cutter of the cutting device, the motor configured to spin the cutter about an axis of rotation so that at least a portion of the cutter rotates during each full rotation about the axis of rotation from a location outside of the wall through the slit into the forming space, across the forming space, and through the slit out of the forming space to the location outside of the wall." In contrast, *Ackerman* discloses a complex mechanism that is operated by handle (46) to move multiple cutting blades (22, 24). *Ackerman* fails to disclose a motor. Under the framework of the *Graham* factual inquiries, *prima facie* obviousness has not been established because there are unresolved differences between independent claims 1 and 13 and the disclosure of *Ackerman*. For at least this reason, Applicants therefore respectfully request that the Examiner withdraw the rejection.

Ackerman cannot be predictably modified to include a motor, as claimed, because the mechanism (18) is incapable of spinning either of the cutting blades (22, 24) in a full rotation. *Ackerman* requires that the cutting blades (22, 24) "move toward each other to effect the cutting and slicing". See column 6, lines 14-18. Hence, the success of any such attempted modification to *Ackerman* would not have been apparent to a person having ordinary skill in the art.

Claims 1 and 13 also recite “the wall bounding the first and second sections having a unitary construction”. On pages 9 and 11 of the Office Action, the Examiner cites MPEP 2144.04 to support that *Ackerman* could be modified in this manner. The Examiner insists that this modification “would not disrupt or alter the function of the slicing machine”. However, making the wall unitary would prevent the assembly and disassembly of the slicing mechanism in *Ackerman*. The complex slicing mechanism that moves the cutting blades (22, 24) in *Ackerman* includes multiple components that must be assembled to operate the slicing mechanism and that must be disassembled for cleaning.

Because claims 2, 3, 5, 8-12, 16, and 17 depend from independent claim 1 and claims 15, 18, and 19 depends from independent claim 13, Applicants submit that these claims are also patentable. Furthermore, each of the dependent claims 2, 3, 5, 8-12, and 15-19 recites a unique combination of elements not disclosed or suggested by *Ackerman*.

Claim 14 over Ackerman or Rosenstone

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ackerman* or *Rosenstone* in view of U.S. Patent No. 5,230,267 to Abler (hereinafter *Abler*). *Abler* fails to remedy the deficiencies of either *Ackerman* or *Rosenstone*. Because claim 14 depends from independent claim 13, Applicants submit this claim is also patentable for at least the same reasons discussed above. Furthermore, dependent claim 14 recites a unique combination of elements not disclosed or suggested by the combination of either *Ackerman* or *Rosenstone* with the secondary reference *Abler*. Consequently, Applicants respectfully request that the rejection of this claim be withdrawn.

New Claims

Claims 23 and 24 are submitted as new claims that recite unique combinations of elements not disclosed or suggested by the art of record. Claim 23 depends from independent claim 1 and claim 24 depends from independent claim 13, which are patentable for reasons discussed hereinabove.

Conclusion

Applicants have made a bona fide effort to respond to each and every requirement set forth in the Office Action. In view of the foregoing amendments and remarks, this application is submitted to be in complete condition for allowance. Accordingly, a timely notice of allowance to this effect is earnestly solicited. In the event that any issues remain outstanding, the Examiner is invited to contact the undersigned to expedite issuance of this application.

Applicants do not believe fees are due in connection with filing this communication, other than a three month time extension fee. If, however, any petition or additional fees are necessary as a result of this communication, the Commissioner is hereby authorized to charge any under-payment or fees associated with this communication or credit any over-payment to Deposit Account No. 23-3000.

Respectfully submitted,
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